Docket No.: PD 1321.02 US   PATENT
USSN: 10/707,834   Art Unit: 2616

REMARKS

This Amendment is in response to the Office Action mailed March 24, 2005. Claims 1-21 are pending in the present application. In the Office Action, the Examiner rejected claims 1 under 35 U.S.C. § 101, the Examiner rejected claims 1-6 and 8-20 under 35 USC § 102 as being anticipated by US Patent 6,141,488 issued to Knudsen et, al., and rejected claims 7, 14, and 21 under 35 USC § 103 as being unpatentable over Knudsen in view of US Patent 6,233,389 issued to Barton. Applicant has canceled claims 2, 4, 8, 9, 10, 11, 12, 13, 14, 16, and 18-21, and amended claims 1, 3, 5, 6, 15, 17. Reconsideration in light of the amendments and remarks made herein is respectfully requested.

I.   REJECTION UNDER 35 U.S.C. § 101

The Examiner rejected claim 1 under 35 U.S.C. §101, for statutory double patenting. Applicant has amended claim 1. Claim 1 describes, in part, a conflict between a core timeslot and a user extended timeslot. Claim 2 of US Patent 6,760,538 describes a conflict between a user extended lead timeslot and a user extended trail timeslot. Applicant contends that the claims are not coextensive in scope and that rejection is now moot.

II.   REJECTIONS UNDER 35 U.S.C. § 102

In the Office Action, the Examiner rejected claims 1-6 and 8-20 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,141,488 issued to Knudsen et al. Applicant respectfully traverses the rejections for the following reasons.

7

Docket No.: PD 1321.02 US   PATENT
USSN: 10/707,834   Art Unit: 2616

Claims 1, 3, 7 and 17

Independent claims 1, 3, and 17 have been amended to include the following limitation:

> using said first and second priorities, by
> choosing either said first or second timeslot.

The Examiner has argued that element 76 of Figure 3 in Knudsen corresponds to automatically resolving a conflict. Even if this is true, one can see that Knudsen allows for only one solution in each and every instance. For example, in claim 1 of the present application there is a conflict between a user extended timeslot and a core timeslot. In claims 3 and 17 of the present application there is a conflict between an automatically extended timeslot and a non-automatically extended timeslot.

Knudsen, when presented to handle such a conflict will automatically choose a solution (element 76 of Figure 3), but it does not teach, describe, or suggest user interfaces or algorithms wherein either one of the timeslots can be chosen. For example, in Knudsen, at Figures 3, 4, and 5, which has been cited by the Examiner, short buffer segments have been added to the show. The buffer segments can conflict with shows on other channels that might start during the buffer segment. However, Knudsen handles this problem by "eliminating some of the buffer segments" (See, Knudsen, column 3, lines 6-9).

Knudsen does not take into account the scenario where the "buffer segment" is more important to the user than the show on the other channel. Nor

8

does it disclose or suggest a user interface where these types of timeslots can be manipulated and/or selected by the user and are treated as separate timeslots with separate priorities. Thus, in the case of the present invention, it is altogether common that the buffer segment <u>would not be eliminated</u>, but instead a portion of the timeslot on the other channel is eliminated. Thus, Knudsen does not allow for the possibility of <u>either the first or second timeslot</u> being chosen as in the present invention, it simply reverts to a default state that drops the buffer segments. Thus, claims 1, 3 and 17 are not anticipated by Knudsen. Since claim 7 depends from claim 1, it is in a condition for allowance as well.

Claims 5 and 15

Claims 5 and 15 are similar in scope to claim 1 of related US Patent 6,760,538, except it describes a user extended trail time slot <u>less than a fixed interval</u> conflicting with a core time slot, in which case the system defaults to choosing the core time slot. For the same reasons that claim 1 of US Patent 6,760,538 was allowed, current claims 5 and 15 should be allowed as well.

Claim 6

Independent claims 6 includes the following limitations:

> <u>determining a cumulative priority for each of said solutions;</u>
>   and
> <u>determining one or two lowest priority solutions to said</u>
> <u>conflict based on said cumulative priority</u>

9

The Examiner has asserted that element 104 of Figure 7a in Knudsen

reads on the limitation determining a cumulative priority for each of said solutions;

and elements 106 and 108 of figure 7a read on determining one or two lowest

priority solutions to said conflict based on said cumulative priority. Applicant

disagrees for the following reasons:

Knudsen is a one-tuner system that uses a VCR. As such, there is only

one type of conflict (two shows at the same time). The present invention operates

in a multi-tuner environment. For that reason, there can be several solutions to a

given conflict, the cumulative priority of which can be different for each solution.

The lowest priority solutions are presented to the user so they can manually delete

shows that are causing the conflict. This is not possible in Knudsen, nor is there a

suggestion to show multiple low priority solutions to the user so that they can

choose one of them.

On the contrary, element 104 of Figure 7a relates to a determination of

whether a show is locked, not presenting a list of solutions that when selected will

resolve a recording conflict. Similarly elements 106 and 108 of Figure 7a show

recording a non-locked show and not recording a locked show. Thus, those

elements do not read on the limitation of Figure 6 that allows the system to present

the user with a list of choices that the system deems most desirable for solving the

10

Docket No.: PD 1321.02 US   PATENT
USSN: 10/707,834   Art Unit: 2616

conflict (i.e., the lowest priority solutions). Accordingly, Applicant respectfully

requests the rejections under 35 U.S.C. § 102(b) be withdrawn.

VII.   REJECTIONS UNDER 35 U.S.C. § 103

The Examiner rejected claims 7, 14, and 21 under U.S.C. § 103(a) as being

unpatentable over Knudsen, in further view of U.S. Patent No. 6,233,389 issued to

Barton. Applicant has cancelled claims 14 and 21. For the same reason claim 7

is not anticipated by the prior art as stated above, claim 7 is not obvious over

Knudsen in view of Barton. Therefore, Applicant believes that dependent claim 7

is distinguishable over the cited prior art references. Accordingly, Applicant

respectfully requests the rejections under 35 U.S.C. § 103(a) be withdrawn.

Docket No.: PD 1321.02 US   PATENT
USSN: 10/707,834   Art Unit: 2616

CONCLUSION

In view of the amendments and remarks made above, it is respectfully submitted that the pending claims are in condition for allowance, and such action is respectfully solicited. If it is believed that a telephone conversation would expedite the prosecution of the present application, or clarify matters with regard to its allowance, the Examiner is invited to contact the undersigned attorney at the number listed below.

The Commissioner is hereby authorized to charge payment of any required fees associated with this Communication or credit any overpayment to Deposit Account No. 04-1175.

Respectfully submitted,

DISCOVISION ASSOCIATES

Dated: May 6, 2005

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12